



## COUNCILMEMBER CARL DEMaIO

FIFTH DISTRICT  
CITY OF SAN DIEGO

### MEMORANDUM

DATE: March 8, 2010

TO: Honorable Mayor and City Councilmembers  
Jan Goldsmith, City Attorney

FROM: Councilmember Carl DeMaio *Carl DeMaio*

RE: Requiring City Elected Officials to Pay Their Fair Share of Pension Costs

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City elected officials currently receive the richest pension benefits of any city employee classification – vesting after only four years. The budgeted cost for these pension benefits for FY2010 is \$38,190 – representing a fringe benefit rate of nearly 51% for pension costs (city contribution and “pickup”) on a base salary of just over \$75,000.<sup>1</sup>

As with most standard retirement packages, taxpayers might presume that the cost of these pension benefits are shared equally between the City (as the employer) and Elected Officials individually (as employees.) However, the most recent actuarial valuation for the city’s pension system suggests that is not the case.

City elected officials are not paying an equal share of their pension costs – contributing roughly 9.06% of salary while the City contributes 30.53% toward Normal Cost for current elected officials.<sup>2</sup>

This practice seems to violate at least the spirit of the law, if not the law itself.

Charter Section 143 calls for pension contributions for normal retirement allowances to be substantially equal between the city and employees, specifically stating, in part:

*The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees.*

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<sup>1</sup> It is important to note that these budgeted costs include both Normal Cost and the amortization of the UAL. This memorandum focuses on the sharing of Normal Cost for elected officials, while the sharing of various components of the UAL between the City and employees may require further vetting by the City.

<sup>2</sup> See June 30, 2009 Actuarial Valuation for the City of San Diego, page 21.

In contrast to this Section 143 of the Charter, previous Mayor and Councils inserted into the City's Municipal Code the following language on pension contribution rates that applies solely to Elected Officials:

**§24.1704 Contribution Rate**

*The City Auditor and Comptroller will withhold from the wages or salary of a Elected Officer who becomes a Member of this System 8% of his or her Base Compensation, which will be deposited in the Retirement Fund and credited to the individual Member's account. The employee contribution rate will also be 8% of Base Compensation for any purchase of prior service as an Elected Officer Member. Beginning on December 30, 1988, each Elected Officer Member will contribute an additional 0.40% of his or her Base Compensation to pay for the high one-year basis for Final Compensation. Beginning on July 1, 2001, each Elected Officer Member will contribute an additional 0.49% of his or her Base Compensation as a result of the Corbett Settlement.*

In addition to the legal issues, forcing taxpayers to subsidize elected official pension costs raises serious questions regarding the efficient use of the public's money – as well as fairness when viewed in light of contribution rates for rank-and-file city employees captured in this Chart.

Normal Contribution Rates in June 30, 2009 Actuarial Valuation								
	Weighted Total City	Non-Safety			Safety			
		Weighted Total	General	Elected	Weighted Total	Police	Fire	Lifeguard
Total Normal Cost Rate for Current Members	23.51%	19.94%	19.90%	<b>39.59%</b>	29.38%	29.26%	29.36%	32.12%
Member Contribution Rate for Current Members	11.73%	10.78%	10.78%	<b>9.06%</b>	13.27%	13.22%	13.40%	13.25%
Employer Normal Cost Rate for Current Members	11.78%	9.12%	9.12%	<b>30.53%</b>	16.11%	16.04%	15.96%	18.87%

I respectfully request an opinion from the City Attorney on the following questions:

- 1) Does Municipal Code §24.1704 violate the City Charter, or does Charter Section 143 provide the City with flexibility to voluntarily contribute (via ordinance) more than "an amount substantially equal to that required of the employees for normal retirement allowances"?
- 2) If the Mayor and Council want to continue the policy of contributing a substantially unequal portion of Elected Official pensions, should this be done through "Offsets" or "Pickup" rather than an ordinance that changes the contribution rates themselves?

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Should the City Attorney uphold the compliance of the Municipal Code §24.1704 with Charter Section 143, the Mayor and City Council should lead by example and voluntarily strike the applicable language from the Municipal Code.

To provide a vehicle for receiving the City Attorney's opinion and considering reforms to contribution rates for City Elected Officials, I respectfully request that this issue be docketed as soon as possible at the Rules Committee.